



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
DARRELL V. MCGRAW, JR.  
CONSUMER PROTECTION DIVISION  
1-800-368-8808 or 304-558-8986

# Press Release

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## FOR IMMEDIATE RELEASE

**July 10, 2008**

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### **Federal Court Rules Attorney General' Enforcement Action Against Iams Funeral Home Is Exempt From Automatic Stay**

On July 3, 2008, United States District Court Judge Frederick P. Stamp, Jr. affirmed Bankruptcy Court Judge Patrick Flatley's order and memorandum opinion granting Attorney General Darrell McGraw's motion to proceed with a case against Iams Funeral Home and John L. Iams, II.

Judge Flatley had ruled the action brought by Attorney General McGraw against John L. Iams, II and Iams Funeral Home, Inc. in Wetzel County Circuit Court could go forward despite the fact Iams Funeral Home filed for bankruptcy two days after the Wetzel County case was filed.

The lawsuit was filed after three audits discovered numerous violations of the Preneed Act, including the failure of the Defendants to obtain a Certificate of Authority to sell, maintain and perform preneed contracts.

The Defendants, represented by Hiram Lewis, argued the bankruptcy filing stayed the Wetzel County proceedings and prevented the transfer of the preneed contracts. However, the Judge ruled the case could proceed in Wetzel County because the Attorney General is enforcing his police and regulatory powers on behalf of consumers, and such actions are exempt from the automatic stay. The Judge also denied the Defendants' motion for damages from the State.

In April 2008, Judge John T. Madden ordered John L. Iams, II and Iams Funeral Home are permanently enjoined from selling, maintaining or performing preneed funeral contracts. He also ordered the transfer of all Iams' open preneed funeral contracts to other funeral homes.

"The decision allows the Consumer Protection Division of my office to uphold its statutory responsibility to enforce the Preneed Funeral Contracts Act and protect consumers," said Attorney General McGraw.

Any persons wishing to file a complaint about a consumer matter or to alert the Attorney General about unfair or deceptive practices may do so by calling the Consumer Protection Hot Line, 1-800-368-8808, or by obtaining a complaint form from the consumer web page at [www.wvago.gov](http://www.wvago.gov).

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